



DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314

18 MAY 1985

REPLY TO
ATTENTION OF:

Office of the Chief Counsel

Site:	NEW BEDFORD
Break:	4.1
Other:	48461

Mr. William N. Hedeman, Jr.
Director, Office of Emergency and
Remedial Response
United States Environmental Protection Agency
Washington, D.C. 20460

Dear Mr. Hedeman:

Thank you for your letter addressed to the Director of Civil Works, Major General John F. Wall, explaining the Environmental Protection Agency's (EPA) position regarding whether response actions taken under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) must comply with other environmental laws. As I understand your analysis, EPA has concluded that, as a matter of law, CERCLA response actions would not require a Corps of Engineers Section 404, Section 10, or Section 103 authorization.

I have examined the points made in your letter and have some reservations about the position EPA has taken. For example, section 302(d) of the Act specifically states that CERCLA does not affect or modify the obligations of any person under other Federal or State law regarding the release of hazardous substances or other pollutants or contaminants. Nevertheless, I recognize that EPA has the primary authority for the interpretation and application of CERCLA, and I therefore would defer to EPA's reading of its own statutory authorities, at least for the time being. Should decisions of the Federal courts or other developments lead me to reconsider this decision, I will consult with you at that time.

I will ask the Director of Civil Works to distribute EPA's interpretation to the Corps' field offices and to implement that position in the Corps' permit determinations. Furthermore, I agree that it would be desirable for our agencies' respective staffs to meet and develop guidance regarding the integration of Section 10, Section 404, and, if appropriate, Section 103 concerns into EPA's substantive Superfund reviews. I have discussed this with General Wall and he will designate appropriate members of his staff to meet with your staff on this issue. Among other things, the Corps would like to discuss the

possibility for an increased Corps participation in Superfund feasibility studies, and the Corps' involvement in dredging operations at Superfund sites.

Sincerely,

A handwritten signature in cursive script, reading "Lester Edelman". The signature is written in dark ink and is positioned above the printed name and title.

Lester Edelman
Chief Counsel